



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210520-0112]

RTID 0648-XX071

Fisheries of the Northeastern United States; Blueline Tilefish Fishery; 2021

Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We are implementing 2021 specifications for the Mid-Atlantic blueline tilefish fishery, including the annual catch and total allowable landings limits. This action establishes allowable harvest levels and other management measures to prevent overfishing, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan.

DATES: Effective *[insert date of publication in the Federal Register]*, through December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978-281-9341.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council manages the blueline tilefish fishery north of the Virginia/North Carolina border under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for setting annual specifications. Regulations implementing the Tilefish FMP appear at 50 CFR part 648,

subparts A and N, which require the Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures, for up to 3 years at a time. On November 19, 2018, we proposed 2019 specifications for the blueline tilefish fishery and announced projected specifications for 2020 and 2021 based on Council recommendations (83 FR 58219). Public comment was accepted through December 4, 2018. We published a final rule implementing the 2019 specifications on February 12, 2019 (84 FR 3341). On February 18, 2020, we published a rule finalizing the 2020 specifications (85 FR 8765) and restating the projected 2021 specifications.

At the end of each fishing year, we evaluate available catch information and determine if the ACL for either commercial or recreational sector of the fishery has been exceeded. If the commercial ACL is exceeded, the regulations at 50 CFR 648.293 require a pound-for-pound reduction in a subsequent fishing year. On November 21, 2020, we closed the commercial blueline tilefish fishery because we projected it reached 100 percent of the TAL (85 FR 74919; November 24, 2020). Final 2020 data only recently became available because of the time needed to allow any late reports from fishing vessels and dealers to be submitted and to ensure all reports go through a thorough quality control process. When final 2020 catch data were analyzed, we determined the commercial sector had landed 108 percent of the commercial TAL. There is no new biological information that would require altering the projected 2021 specifications beyond adjusting the commercial ACL for the overage that occurred in 2020. As a result, we are announcing the final specifications for fishing year 2021, as projected in the final rules implementing 2019 and 2020 specifications and adjusted for the commercial overage in fishing year 2020 (See Table 1).

Table 1 -- 2021 Blueline Tilefish Specifications

	2021
ABC – North of NC/VA line	100,520 lb (45.6 mt)
Recreational ACL / ACT	73,380 lb (33.3 mt)
Assumed Recreational Discards	1,468 lb (0.7 mt)
Recreational TAL	71,912 lb (32.6 mt)
Commercial ACL / ACT	27,140 lb (12.3 mt)
Assumed Commercial Discards	271 lb (0.1 mt)
Commercial Overage Adjustment	1,965 lb (0.9 mt)
Commercial TAL	24,924 lb (11.3 mt)

All other management measures in the blueline tilefish fishery, including commercial and recreational possession limits, will remain unchanged for the 2021 fishing year.

The FMP allows for the previous year's specifications to remain in place until replaced by a subsequent specifications action (rollover provision).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Assistant Administrator for Fisheries, NOAA finds it is contrary to the public interest to provide for prior notice and an opportunity for public comment, under to authority at 5 U.S.C. 553(b)(B). The proposed rule for 2019-2021 specifications (83 FR 58219; November 19, 2018) provided the public with the opportunity to comment on the specifications for 2019, and projected 2020 and 2021 specifications. All comments received were addressed in the final rule (84 FR 3341; February 12, 2019). A final rule on February 18, 2020 (85 FR 8765), finalized the 2020 specifications and restated the projected 2021 specifications. The only change to the specifications for fishing year 2021 is a small adjustment to the commercial ACL for an overage in 2020 that is required by the regulations. The public has been aware of the overage in the commercial sector of the fishery through information on a public quota monitoring webpage and through an announcement at the Council meeting in April. Implementing this adjustment to the 2021

fishing year is a necessary accountability measure that the FMP designed to prevent overfishing, and doing so in a timely manner is necessary to reduce the likelihood of additional overages this year.

Similarly, the need to implement these measures in a timely manner, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication. The public and fishing industry participants expect this action because we previously alerted the public in the proposed and final rules that we would conduct this review in interim years of the status quo multi-year specifications and announce the final quota. Final analysis of 2020 data only recently became available because of the time needed to allow any late reports from fishing vessels and dealers to be submitted and to ensure all reports go through a thorough quality control process. Implementing the new commercial TAL as soon as possible will allow the public to monitor landings against this new limit through our weekly quota monitoring updates available on our website for the remaining six months in the 2021 fishing year. This could allow the industry to anticipate or even avoid a closure by slowing the pace of as landings as they approach the TAL.

This final rule is exempt from review under Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This final rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

The Chief Counsel for Regulation for the Department of Commerce certified to the Small Business Administration that the 2019-2021 bluefin tilefish specifications rulemaking would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. No comments were received that would change the initial certification. Because advance notice and the opportunity for

public comment are not required for this action under the Administrative Procedure Act, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply to this rule. Therefore, no new regulatory flexibility analysis is required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 20, 2021.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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